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Law and its Doctrinal Study

(On Legal Dogmatics)

Abstract. A theoretically motivated reasoning leaving its mark on legal dogmatics producing some derivative through a methodical process, the doctrinal study of law is a parasite contingent upon the law in force. For it converts law positedly built by consecutive structuring of words into some sort of a uniform conceptual system. Therefore it is an authored product mostly in a historical chain. Its novelty is lending logicality to what is inadvertent itself. As a reconstruction providing logically added meaning to a subject not carrying this itself, it too is contingent with by chance variations competing amongst themselves. Its goal is to establish consequentiality for deductive derivations in order to guarantee certainty in/of the law. Consequently, in arrangements without conceptualization there is no dogmatics either. In European history, the continental tradition has retraced *ius* to *lex* for the law to be embodied by posited texts. Dogmatics is a meta-structure logified upon them.

Keywords: interpretive context; meta-system; second reality; law as language & as logic; conceptualization & systematization; Civil Law / Common Law; rules / principles

1. Legal Dogmatics in a Science-theoretical Perspective

The doctrinal study of law is not a scientific field on its own–is not a discipline in either academic sense–, rather it is a pursuit, and the product thereof as its formulation.

One can hardly find a more exacting proclamation of the various possible manifestations of law than that given of the variety of the "languages of law" more than half a century ago by the father of our friend Jerzy Wróblewski (who passed on fifteen years ago), who–similarly to his son–was also a professor of law. According to this1 there is, on the one hand, the law, and on the other hand, the *application of law*, and in between them one finds the *doctrinal study of law* and *jurisprudence*, with their respective languages. In other words, we

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[1] Wróblewski, H. B.**:** *Jezyk prawny i prawniczy.* Kraków, 1948. 184.

have the *law in books*, the stuff of desiderata with normativity derived from its valid positivation, and we have also the *law in action* composed of series of deductions based on the former in form of actual decisions to convert positive rules into practical reality, within the social understanding of the law's final ordering force in society. Or, the latter as the fulfilment of an expectation is therefore also reality while it keeps on to represent a kind of normativity as well, able to exert normative effects indirectly. Within the domain of law, logically speaking there is nothing other between and above these than mere words (speech-acts) used to represent and operate them in a discourse treating and processing them, which forms a meta-system by reformulating them at a higher systemic level. In fact, the very goal of carrying this discourse is exactly this *meta-system:* to discover and to construct–within a *dogmatic* approach–contents believed to be hidden behind the authoritatively manifested nominal forms of the law; contents which can be construed as organized into a coherent system by the tools of linguistic-logical analysis. Or, the goal of such a focus on building some *scientific* re-representation is to identify "essential" correlations in the law's verbal manifestation of authority, from its phenomenal expression taken as an empirically experiencable (and therefore scientifically reconstruable) aggregate of facts.

It is important to realize that the law and its application are here understood to be two distinct components that either complement or compete with one another, albeit to study the law without simultaneously studying its application could at best be relevant as a within itself contrasted partial analytical investigation covering only particular issues (e.g. in order to analyze the applied law from the perspective of criteria native to positive law, or in order to allow for the formulation of dogmatics built exclusively on the positive law). Apart from that, in every other case the two need to be investigated as parts of one single and integrated unit, since the parallel existence of two separate dogmatics–that of written law & that of jurisprudence–would at the least be simply without reason.

Accordingly, the doctrinal study of law cannot be a scientific field on its own. It too is, instead, *practical action i*tself. It is a part, extension, completion, and augmentation of the *praxis* which, almost singularly in the world, treats–artificially–whatever given textual form of the law as the embodiment of the law itself, by inducing whatever legal [*ius*] from the posited texture of the law [*lex*], thereby treating the latter as the starting point of all departures and theoretical developments, i.e. all reflexive intellectual exercise in law. When students of law, aware of the fallible nature of any textual form, are setting off to produce linguistic-logical projections on (while the systemic reinterpretation of) such texts–and by doing so they inevitably also carry out a critical analysis

thereof, increase the rigorousness of the in-built presuppositions, resolve latent contradictions, fill in the obvious gaps, and decode the meaning of (or, properly speaking, gives professional meaning to) their terms and concepts along the line of a uniform logic, and then produce a coherent logical system based on and as an ultimate result of all of these–, they play a role in the *development of law,* in its timely *completion*. When doing so, the scholar does work that naturally could in fact have been done by those having drafted the law (since the desire for and expectation of just such a finalization could already be detected as early as in the compilation of 15th century European customary law, similarly to other compilations akin to Werbőczy's *Tripartitum*,[2] in order to then–starting with the large codification work dated to the French *Code civil*–eventually reach its perfect form hardly surpassed to this day); all of this, however, did not and can in fact not render unnecessary the subsequent integration of the refining feedback (repeatedly, as conditions and practices do change incessantly) by those demanding cultivators of theorized praxis who undertake this doctrinal system-building as *authors.* For it is to be remembered that not one single attempt at it is logically necessary but is alternative and concurrent, i.e. displaying a certain (practice-boundly theorized) optimum at the most.

Most of our large operational systems (our factories, bridges, hydroelectric power generating plants, similarly to our computer-based capacities) have once been designed by scientific talents, nevertheless, their related products are not the stuff of science, rather, at the most these are purely practical applications borne out of the marriage of science and certain results of various other forms of human understanding. So not even the doctrinal study of law does "cognitively recognize", instead it gives a more sophisticated, linguistically-logically organized, thus *higher-level form* to a formal manifestation, which otherwise bears meaning just in and as bound to its given arbitrary appearance. Consequently, no results of dogmatics can be verified or falsified. We must make our surroundings habitable, we must cleanse our things, and it is a sign of careful practice and good practicality as well if we organize our beads and buttons according to some principle. Furthermore, while we are busy at work we may come to gain some deep understanding; however with all of this–either at the time of the process itself or at a later revisiting of the issue–we do not advance the knowledge itself, instead we merely reduce the incidental nature or somewhat increase the utility of our things by our act of creating order via organization.

[2] Cf. as an entry in <http://en.wikipedia.org/wiki/Istv%C3%A1n_Werb%C5%91czy>, and Bak, J. M.–Banyó, P.–Rady, M. (eds.): The "Tripartitum". Budapest, 2005. 473.

Thus, the cultivation of legal dogmatics is a practical step in the direction of the positivism's geometrical law-ideal, which goes past the mere positing of law, which in all of its attempted forms remains *contingent*. Occasionally, of course, it can be increasingly tight, but it cannot reach such a degree of correlation, equivalency and systemic coherence that would by its very nature exclude the possibility of other (re)constructions.[3]

As soon as this attempt at refining the system by way of internal clarification reaches a certain depth, it could in fact require further breaking-down which can either manifest itself at the level of the whole of the legal system, or distributed among the various branches of law. Nevertheless, we are well advised to remember that as soon as we elevate our attention from the level of a given branch of law (which is tied together by a singular set of professional specifications) to the level of the entire legal system (which is comprised of the units of the branches, and which is rather more randomized in nature), we are proportionally less likely to encounter the systemic self-discipline that could be characteristic of the lower levels, and as a result we are left with fewer and fewer items that would be (otherwise) required for the comprehensive and methodical development of a systemic conceptual re-construction of the law.[4]

[3] For the immanent limits of axiomatism in law cf., by the author, 'A kódex mint rendszer (A kódex rendszer-jellege és rendszerkénti felfogásának lehetetlensége)' [Code as system (Its systemic nature and the unfeasibility of its understanding as a system)] *Állam- és Jogtudomány* XVI (1973) 268–299 and 'Heuristic Value of the Axiomatic Model in Law', forthcoming in Jakob, R.–Philipps, L.–Schweighofer, E.–Varga, Cs. (eds.): *Rechtstheorieband in memoriam Ilmar Tammelo*. Münster, 2008.

[4] We can only introduce this as a distant analogy: an attempt to repeat the axiomatic founding and deductibility-expectation, which was thought to have been achieved in individual branches of science (physics, chemistry, biology, etc.)–spellbound by the allure of "unified science"–, in hope of reaching a supposed *final founding* that would unify (by bringing to a common denominator) the paradigms of all the various branches of science, has already led to a disappointing failure, since human science itself in its fallible human manifestation has eventually proven to be contingent.

Similarly, it is theoretically possible to attempt to establish a final doctrinal assessment of the various stylistic ideals that may have characterized a certain art form in different historical periods, but to do so in a general sense, and in the broader context of perhaps differing styles, and even more so, with regard to different branches of art, seems like an unreasonable effort in the long run.

For their first classical syntheses, cf. Neurath, O. (ed.): *International Encyclopedia of Unified Science*. Chicago, 1938. and Wölfflin, H.: *Kunstgeschichtliche Grundbegriffe.* Das Problem der Stilentwicklung in der neueren Kunst. München, 1915. 255, respectively.

2. The Process of Advancing Conceptualization

Consequently, when we conceptualize available linguistic material–to be treated with semantics and logics–according to some legal systemicity, we are in fact creating some taxonomic *locus/loci* comprised of what is/are essentially random word/s, which is/are used for lack of a better way of communication. However, this way of forming taxonomic units itself is potentially in a constant change and flux, since the matter of what and where (at which level) will end up becoming a demarcating item (i.e. a taxonomic identifier) is contingent on–among other things–a certain internal dynamic, and is dependent on a certain fluctuation; and the issue of what will function in quality of exactly what will have only been defined by the entire contexture of the system (e.g. the mere functionality of what can serve as rule or principle, or the way in which the same words used in different branches can indeed have differing meanings).[5] Similarly, it is the whole system that is at potential stake as a result of conceptual division, classification, categorization, hierarchization, in result of mental operations. Yet, it is not the case that simply *words* turn into *concepts*[6] and are then manipulated further within some logical chain; what is at the heart of the matter is rather that all these can serve as building blocks of and foundations for a *meta*-system, the properties of which will have been defined through their integration into this *meta*-system. Furthermore, it is such a *meta*-system which is the tighter the more contingent; hence, it could potentially be different (differently executed and construed) based on the same posited material underneath it.

It is certainly an overly simplified approach if we imagine a vision of bipolar existence, where on the one end there is the "stuff of language"–clothed in its given form at any given time–, and on the other end, legal dogmatics, as a sort of dressing up of the previous in the cloak of "legal taxonomy". In reality, however, they can be pictured as flowing waves that are always

[5] Cf., by the author: Structures in Legal Systems: Artificiality, Relativity, and Interdependency of Structuring Elements in a Practical (Hermeneutical) Context, *Acta Juridica Hungarica* 43 (2002) 219–232 and <http://www.akademiai.com/content/r27863g6u01q777u/fulltext.pdf> as well as in *La structure des systèmes juridiques* [Collection des rapports, XVI[e] Congrès de l'Académie internationale de droit comparé, Brisbane 2002] dir. O. Moréteau & J. Vanderlinden. Bruxelles, 2003. 291–300.

[6] This is what I have already attempted to show when stating that the concept of 'rule' is common to all arrangements in Western law, while the concept of 'norm' is specific only to the Continent. Cf., by the author: Rule and/or Norm, or the Conceptualisibility and Logifiability of Law. In: Schweighofer, E.–Liebwald, D.–Angeneder, S.–Menzel, T. (eds.): *Effizienz von e-Lösungen in Staat und Gesellschaft.* Stuttgart–München–Hannover et. al. 2005. 58–65.

positioned at opposing phases of some sort of a 'vision of existence'. As soon as we have "law", its very first analytical understanding brings about the sprouting of some sort of "dogmatics"; and as soon as this understanding is transposed into the dogmatic realm, its very first practical application will in turn also contribute to having a richer legal quality. Consequently, whatever advancement is exhibited, the given law and its dogmatic counterpart prove *to be mutually preconditioned.* When making choices in the presence of alternatives, choosing according to preferences, siding with one of several differing (competing) conceptualizations, and opting for one technical procedure over another, it always increases the contingency of the given doctrinal variant; while, by the same token, the broader contexts of policy efforts directed at law or of social order-ideals manifested in law may also re-posit dogmatic arrangements at a higher taxonomic place.

Nevertheless, this counteracting wave-like dynamic formed between the law and its dogmatics not only acts as a constantly relativising force, which makes law dependent on dogmatics and vice versa, but it also prevents the formation of such a static state, where there could be any reasonable discussion of systemic immutability, a fixed state of constancy, or even any ultimate linguistical-logical equivalency. Therefore, we can only address the *systemic nature of the actual state* or its tightness, in which the major strands and sidetracks of the act of system-creation–regardless of whether we speak of logical or linguistic correlation (deduction or any act of connection: assignment or co-ordination)–can, theoretically, be reconstituted by other components in a new order, as a result of any actual (formal or hermeneutical) change occurring at either the "top" or the "bottom" of the original operational chain. Regardless of what great strides Continental law (the rule-set of which is made normative also through its dogmatics while reestablished as a sphere of interrelated norms) has made toward distancing itself from the traditions of classic Roman law (which was developed further by way of the classic Anglo-Saxon law doctrine in its own manner), it is, nevertheless, subject to change with respect to its dogmatics, initiated by whatever new challenge, or newly manifested factor rising out of the application of law (or any force of theoretical nature having an effect on the application of law), and this change can lead to reorganization of the dogmatic structure of Continental law. Somewhat this is similar to how in Anglo-Saxon case-law the method of *distinguishing* can result in the reevaluation, or reinterpretation of the message that can be deciphered from any newly presented particular case, more precisely, the judge's rendering of the law ("by declaring what the law is") is always conditional on the case-specific evaluation of prior decisions, when the actual adjudicative assessment of facts may alter the message presented by precedents.

Consequently, dogmatics, on the one hand (and as such, at the same time, we can state that dogmatics remains dogmatics so long as and because it) carries the promise of *completeness,* and on the other hand, is always transient in nature, because at any given time it is *merely* in the state of *development*. Dogmatics has an inalienable dual nature, regardless of the fact that we either deduce its existence from the notion that "we must make a decision that results in action, and in our decision-making we cannot rely on certainty",[7] or we ascribe it an allegedly completed systemic quality derived from its being (as it is) the exclusive form of the manifestation of law–one that therefore (for all intents and purposes) is an axiomatically established given, as it is simply posited that way–while being cognizant of the brutal fact that the same exclusive form through which the law has been normatively posited and thereby also materialized is arbitrary; and thus eventually we do recognize just in its random and fallible character a hypothetized systemic quality, which at the same time may require expounding, clarification, and the process of making it explicit.[8] Regardless of whatever extent its structure is conceptually completed, in relation to meeting specific practical challenges it still manifests itself in casual answers; and this too do therefore mean that–similarly to English law–it

[7] Szabó, M.: *Ars Iuris* A jogdogmatika alapjai [The foundations of legal dogmatics]. Miskolc, 2005. 18.

[8] And this is the essence of the long debated Hungarian doctrine of the *"invisible constitution"* as well: it postulates an undefined dogmatics, as if it were something floating above the text of the posited constitution, and as such as something that the Constitutional Court relies on in its decision making, when it passes down rulings without sufficient normative basis (i.e. in absence of a specific constitutional rule). Cf., by the author, 'Legal Renovation through Constitutional Judiciary?' in Sadakata, M. (ed.): *Hungary's Legal Assistance Experiences in the Age of Globalization.* Nagoya, 2006. 287–312 as well as 'Creeping Renovation of Law through Constitutional Judiciary?' in his *Transition? To Rule of Law?* Constitutionalism and Transitional Justice Challenged in Central and Eastern Europe. Pomáz, 2008. 117–160. In this sense the doctrine of the "invisible constitution" is a retrospective substitute justification, and is not a prospective product borne out of the progress demonstrated by the functioning of the Constitutional Court; and this is exactly why the practice of relying on these virtual rules quickly died off as soon as the Constitutional Court disassociated itself from the ambitions of its first, founding president, and thus distanced itself from the concept that its primary role would be to expand the constitution in a latent but active manner, yet without appropriate mandate. Consequently, the claim that this "invisible constitution" too is part of the "hierarchy of the sources of the law", as "a possible (and since held by the Constitutional Court: binding) interpretation of the Constitution" Jakab, A.: *A magyar jogrendszer szerkezete* [The structure of the Hungarian legal system]. Miskolc, 2005. 99–100 and <http://www.unimiskolc.hu/~wwwdeak/dolg_ja.pdf>–is fundamentally misleading when observed from this perspective.

only serves up *examples*, from the outset foregoing the expectation of exhaustive comprehensiveness. (It can only be explained as an example of our human fallibility that when acting, we believe our response to be comprehensively completed, while its completeness is merely a given, dependent on whatever we have in our imagination about normality, about what we expect to occur and therefore whatever we deem ought to be subject to regulation.[9]) To put it differently, it is of an open texture, since–as stated earlier, when discussing culture[10]–it carries the potential that "it could have been otherwise as well", even if it happens not yet or already not to become something else. By the same token, however–and this is the other pole of the dogmatics' dual nature–at any given time it *claims to be finite and final (self-closing) in its given state,* as if–although probably it may reopen the very next day–it were to live on unchanged forever as the very stuff of eternity.

Finally, there is yet another factor in the systemicity of legal dogmatics. Namely, even its relative permanence is just a matter of reconstruction, a function of the chosen perspective. Perhaps one may find fixed structural points in a system carrying the promise of remaining unchanged over time only provided that we identify the root of permanence in its *logical* nature, as a systemic axiom. However, once–just as with theologies constructed on revelations, which are the models for the doctrinal study of law[11]–we start searching for decoding, understanding, or giving meaning(s) behind the authoritativity imposed by the holy text (the dogmatics of which, although, still may appear in a logically constructed conceptualized form, nevertheless, already in a *hermeneutic* context, thus, all in all, in the culturally predetermined duality comprised by the historical permanence of the physical nature of its signs and

[9] As methodic precursor of the American "Law and Literature" movement, White, J. B.: *The Legal Imagination Studies in the Nature of Legal Thought and Expression.* Boston–Toronto, 1973. 986. was only to reinvent the quasi ontological significance of "legal imagination", which had already represented–for Schmitt, C.: *Gesetz und Urteil.* Berlin, 1912. 129–the genuine borderline (never either improved or surpassed by Kelsen) within which juridicity might at all be conceived. Cf., by the author: 'Change of Paradigms in Legal Reconstruction (Carl Schmitt and the Temptation to Finally Reach a Synthesis)' in Wahlgren, P. (ed.): *Perspectives on Jurisprudence* Essays in Honor of Jes Bjarup. Stockholm, 2005. [= Scandinavian Studies in Law 48]. 517–529 and *Rivista internazionale di Filosofia del Diritto.* LXXXI (2004) 691–707.

[10] Karácsony, A.: A jog mint kulturális jelenség [Law as a cultural phenomenon]. *Jogelméleti Szemle,* 2002/4 <http://jesz.ajk.elte.hu/karacsony11.html>.

[11] Cf., e.g., Kraft, J.: Über das methodische Verhältnis der Jurisprudenz zur Theologie. *Revue internationale de la théorie du droit* 3 (1928–29) 52–56 and On the Methodical Relationship between Jurisprudence and Theology. *Law and Critique* 4 (1993) 117–123.

the historically bound and self-fixingly varying nature of their meanings),[12] we must recognize that we are faced with a progressive chain of development. This is merely to recapture the world of the acting man which he had previously positioned in the past to be beyond his personal sphere of influence–of course without having more or a different influence over the end result of the process (due to having been elevated to being the subject from the position of being just a mere reference), than the amount he had previously believed (at least according to his subjective perception) to have had.

However, if in fact every newly evolved state of the law does indeed (theoratically speaking) reorganize the doctrinal study of law–i.e. if law and its doctrinal study are in constant interaction and are therefore moving following a wave-like pattern with relation to one another, and thus constantly providing each other with new *impetus*es–, it can also be supposed that *legal policy* has a similar relationship of accompaniment with dogmatics. This is so because the latter is not an independent acting factor: it only demonstrates the extent and direction to which law in action is established, planned, harmonized, and co-ordinated in either legislation or the application of law.[13] Well, even in this respect the doctrinal study of law does not herald creative novelty, neither does it exhibit an independent character, since all the while the effort to render the conceptual base and systemic potentialities as uniform and coherent as possible still happens in this very same sphere and is taking place in this context.

3. Ideality v. Practicality in Legal Systemicity

It is worth pausing for a moment to consider, what is the exact status of those sets of meanings which are suggested by those kinds of differentiations, according to which–for example–"the thinking governing the doctrinal study of law is limited not by *rules of positive law* as 'dogmas', rather by those

[12] Cf., by the author: Legal Traditions? In Search for Families and Cultures of Law in Moreso, J. J. (ed.): *Legal Theory / Teoría del derecho* Legal Positivism and Conceptual Analysis / Postivismo jurídico y análisis conceptual: Proceedings of the 22nd IVR World Congress Granada, 2005, I, Stuttgart, 2007. 181–193 [ARSP Beiheft 106] and in <http://www2.law.uu.nl/priv/AIDC/PDF%20files/IA/IA%20-%20Hungary.pdf> as well as *Acta Juridica Hungarica* 46 (2005) 177–197 and <http://www.akademiai.com/content/f4q29175h0174r11/fulltext.pdf>.

[13] Cf., by the author: 'Towards an Autonomous Legal Policy?' [abstract] in [23rd World IVR Congress of Philosophy of Law and Social Philosophy] *Law and Legal Cultures* in the 21st Century: Diversity and Unity Working Groups Abstracts. Kraków, 2007. 111 and <www.law.uj.edu.pl/ivr2007/Abstracts_WG.pdf>.

background category sets which may have affected the shaping of these rules in the process of their formation".[14] I guess the very heart of this matter is that on an analytical level we first distinguish two different kinds of intellectual representations and subsequently we discern an effect/result-type primacy, or temporal priority between them.

If we *understand* something, this understanding can only stem from the fact that we already possess the ability to intellectually conquer the subject of our theoretical investigation by the means of categorization and classification, i.e. by way of comparing it to something already decoded and thereby subjected to relative identification and differentiation. Or, on the one hand we have the intellectual *facultas* to do processing, and on the other we are in possession of the results of prior processing (as *experimentum*). Consequently, we have already a certain degree of routinized (and to a great extent also confirmed) practice, following which this *comparatio* can be carried out sufficiently. It would, however, not be meaningful to identify either pole or section as an absolute starting point, thereby attributing primacy or priority to any of them,[15] since–as far as it can at all be meaningful to establish such differentiation once a given degree of complexity has been reached–we cannot think more of the process than one developing in native *reciprocity* and necessary *complementarity,* becoming increasingly more complex in its potential. Therefore, there is no factor that would prevent the linguistic manifestation of such 'background category sets' to–coincidentally–correspond exactly to the way those 'rules of positive law' are posited verbally. At the same time it is obvious that any act of drafting new regulation rests on an existing doctrinal assumption, and in most cases it will carry the potential of integration of the new (conceptually split or divided) doctrinal relations into the systemic structure of the existing scheme.

There are always theoretical possibilities, but the law does not and cannot have an idealistically perfect, finished, and closed system, due to the fact that law itself is practical action, a response given to particular challenges, and thereby a model creation achieved by way of normatively ascribing prospective targets to retrospective fundaments. When the wise men of early modern times were contemplating the comprehensive description of the world in terms of natural laws, they could posit the presumptive existence of a "mathematical

[14] Szabó: *Ars Iuris… ob. cit.* 155 [the emphasis is by Cs. V.].

[15] In contrast with the view of Hayek, F. A.: The Primacy of the Abstract [1968] in his *New Studies* In Philosophy, Politics, Economics and the History of Ideas. London–Henley, 1978. 35–49, attributing primacy to the ability of abstraction–versus concrete observation–in his debating on cognition.

value" within the system as something that would necessarily follow from their having comprehensively discovered the nature of economic processes. However, as they quickly recognized it as well, no large degree of comprehension is realistic, due to the ever changing disposition of the infinite number of players and further relevant factors involved, which is to render the system too complex for the human faculties of comprehension to have a sufficient match.[16] While they did in fact accept the task of trying to realize some sort of an ideal, yet they also accepted the foreseeably inevitable defeat in their effort to directly realize it. Therefore, although we may indeed have ideals, but only ones that are necessarily bound as constrained by the presence of finite objectives and surrounded by adequate practical conditions. For we can hardly do more at any given instance than gravitate toward the next challenge in trying to meet it, thus attempting to give meaning to our presence here on this planet.

4. Conceptualization, Systematization, Dogmatization

The Roman law's reception sprouting mostly from Italian seeds and spreading over the course of centuries led to the development of two fundamentals on the European continent, and the tracing of the ideal of *ius* back to *lex* was to implicitly contain both.

First and foremost, whatever the legislator has posited constitutes law itself, comprehensively, exhaustively, and with exclusivity. This is the common mental core relied on originally when the European doctrine on the sources of law started to develop, in terms of which the *legislative act of positing* a law is to be treated as the source of the law. In ontic terms, for the continental tradition law is manifested with and by this; and from a gnoseological perspective this provides the starting point for all inquiries into law. It is in this that the idea exclusive to the Continental law's *applicatio iuris* is born: law is something artificially established as physically perceptible, objectified, discreetly separate entity, valid on its own, which, when applied, is transformed to be of utility for a derivative product prepared by the judge for adjudicating–as a synthetic construct–on a statement of fact.[17] This being in vivid contrast

[16] Or, all this complexity is cognizable only for God–as opinioned both by Molina, L. de: *De iustitia et iure.* Cuenca, 1593 and Lugo, J. de: *Disputationum de iustitia et iure.* Lyon, 1642. See Hayek: The Primacy of the Abstract… *op. cit.* 28, note 5.

[17] It follows directly form this that the concept of *Tatbestand* [the statement of those facts that constitute a case in law] has been included in the conceptual set of Continental law–and only of Continental law–with due cause in due time. The so-called conclusion of

with the Anglo-Saxon model, which (in contrast with the late republican and imperial periods) having derived inspiration from Roman models older still, is only capable of capturing the presence of law in the case-by-case actualization of the ideal of justice through the judge's decision itself, "declaring" the search to find *a posteriori* the *dikaion*–the most fitting, fair and just resolution in the given individual situation–to have culminated in attainment.

Secondly, the continental tradition perceives in law a message that has already reached a certain level of *generality,* a set of experiences of prior decisions which have been captured in the form of *regola*s, which–if objectified–can govern, make uniform, and guide into preestablishedly foreseeable and predictable channels any procedure carried out in the name of the law. Accordingly, law is *a pattern of future decisions formulated in generality.* All this in contrast with the Anglo-Saxon perception, which does not discern more in what is manifested as law than a particular case-specific and exemplary manifestation, which–if we or anyone else were to have perceived the case at hand differently from the way the presiding judge saw it–just as well could have been different. Thus, continental *Rechtssetzung* always constructs against the force of some sort of *vacuum*, because wherever *création du droit* enters with *legis latio*, there law appears in place of what had previously been empty space–all this in contrast to the Anglo-Saxon mentality, where even the feasible professionalization of law-making and its conversion into industrial-scale production does not result in any completion of "the law" (with senses of finality, roundedness or fulfillment), rather at best it only exemplifies: it merely sheds (recalls, manifests) an exemplary and rather commendable light on a smaller portion of what is presumed to have ever existed as law behind it, through the occasional judicial act of eventually naming it.[18]

The *conceptualization* of law–that is, the elaboration and treatment of linguistic elements describing legal relations in sets of concepts as components

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fact is a product of legal dogmatics: a logically constructed complementary pair of the norm concept, which allows the schematization mounted on a syllogistic conclusion–set off from the act of *Rechtssetzung* [*création du droit*, etc.]–in the operation called *Rechtsanwendung* [*application du droit*, etc.].

[18] For instance, according to Oliver Wendell Holmes, generalization means reduction. On his turn, Justice BRANDEIS had concluded therefrom that "The process of inclusion and exclusion, so often applied in developing a rule, cannot end with its first enunciation. The rule as announced must be tentative. For the many and varying facts to which it will be applied cannot be foreseen. Modification implies growth. It is the life of the law." *Washington v. Dawson & Co.*, 264 U.S. 219, 236. Cf. also Cardozo, B. N.: Law and Literature [1925] in his *Law and Literature* and *Other Essays and Addresses*. New York, 1931. 8 and 15.

of logically erected constructs, organized into some coherently arranged overall set to build up its *systemicity*–will be achieved in such an understanding of the law as exhaustively *embodied by its posited generality,* and as the outcome of mental operations with texts of the law itself in its reconstruction at a *meta*-level which is intellectually erected upon it. Well, the doctrinal study of law can be characterized as system of interrelations mentally deconstructed from the primary manifestations of the law, that is, as a secondary *meta*-level fortified by its own comprehensive systemic construct built upon the primary text core.[19] It follows directly therefrom that legal dogmatics only formed, could have formed, and does in fact form where the law manifests itself in form of textual objectification; consequently all procedures carried out in the name of law have to be based on formal linguistic-logical operations of text-processing. Wherever the current ideal of law and order spreads beyond the mere (formal) quality of text-conformity–either due simply to the actual lack of such textuality (as in the Anglo-Saxon tradition), or because the text, in addition to its own self-referential finality, sets the prerequisite additional requirement of a personal ethical conviction in sync with or directed at the fulfilment of given values, sourced from the transcendental power having revealed the text itself (as in classic Jewish or Islamic law)[20]–, there is (and can be) no legal dogmatics. The thought of legal dogmatics is simply alien to the *ordo*-ideal and operational principles of such classicm non-systemic arrangements. As the Common Law has for long established it, guidance derived from relatable precedents (properly speaking, from their judicial evaluation) is dependent on the singularity of particular cases; and the model cases used as examples for referencing represent a set of unrelated unique circumstances, among which nothing would necessarily tie them together in a formal way, so there is no logical connection between them either.[21] (Characteristically enough, it was the English approach to logic–as opposed to its German understanding–which made it obvious that logic itself is not the study of entities, occurrences, or any other capacities taken in their by chance aggregate, rather it is the inquiry into relations that are said to prevail exclusively within the one same system amongst its theorized elements, accepted as potentially arguable as proven

[19] Cf. Pokol, B.: *Jogbölcseleti vizsgálódások* [Legal-philosophical inquiries]. Budapest, 1998. 44.

[20] Cf. Varga: Legal Traditions? *op. cit.* passim.

[21] *Ibid.*

or valid in order to test their infrasystemic coherence, i.e. consequentiality to the exclusion of latent contradictions.[22])

This is why the doctrinal study of law is a characteristically continental product of Middle Ages and early Modern Times in Europe. It formed as a result of how, starting from 15th century Bologna, our ancestors received Roman law according to the contemporaneous scientific ideal and the consequentialism in their order-ideal. This essentially axiomatic ideal of order following the methodology of geometry and mathematics was continuously cultivated for centuries, leading to the formation of such a solid secondary tear in scientific analytical work (providing the law with a self-referential framework for interpretation) built around (and above) the actual primary tear of the law, which in the early Modern Times, when the law codification of nation-states (as an act of reestablishing national unity) was done with an attempt to link specifically the law, as well as its application and scholarly processing, back to the exegesis of those posited codes of national laws. Well, at that time jurisprudence itself was proposed for a model of dogmatics, *Begriffsjurisprudenz* or *conceptual jurisprudence*, containing both its own genesis and actual self-realization within itself as in a sort of "conceptual heaven" [*Begriffshimmel*], complete and sufficient in and of itself. The building of its conceptual framework is done by a new branch of scholarship: *Rechtslehre*, which if (and when) having reached whatever level of systemic self-formulation was attainable, can then naturally go on to attempt to do an investigation into the branches as well.[23]

[22] Cf., by the author: Az ellentmondás természete [The nature of contradictions, 1989]. In his *Útkeresés. Kísérletek – kéziratban* [Searching for a path: unpublished essays]. Budapest, 2001. 138–139.

[23] The concept of *Rechts|lehre* is derivative of *iuris|prudentia*, presuming transformation by scholars, whereby law, the conceptual phenomenon, turns into scholarship, with a concept-set created according to some scientific ideal. On its turn, the doctrinal study of law is derivative of the law posited: it is *meta*-order thereof.

Scholarship disposes of its own procedure of verification/falsification, freed of interventions. In contrast, the doctrinal study of law is *parasitic* a form. As a higher level reformulation of the law with implements of logic and the requirements of systemization, it takes into account the law's contexture as well, and as a *reflex*-phenomenon in a meta-reconstruction of the law, it is reformulated continuously in harmony with all finite (mentally fixed) states of the law.

If it is true that by one fell stroke of the legislator's pen, whole libraries are vulnerable to be rendered out-of-date [as formulated by von Kirchmann. J. H. in his *Die Wertlosigkeit der Jurisprudenz als Wissenschaft.* Heidelberg, 1848 striking the peak of legal positivism: „*Drei Worte des Gesetzgebers, und ganze Bibliotheken werden zur Makulatur*"]–as recently happened with Quebec's *Code civil*, when shortly after its enormous doctrinal processing

We need not simply reiterate that wherever law is posited in a continental sense, this involves the parallel birth and reciprocal coexistence of its doctrinal study, but moreover we need to point as far as claiming that in our arrangements dogmatics provides the *interpretive context* of and for the law posited. By the way, this automatically renders the question illogical whether or not dogmatics itself may have any mandatory force. Obviously, it has none. Yet one still may not step forward with radically new legal understandings in hope of success, expecting far more than flat rejection. (Our life follows this tradition. Its understanding and following in practice secure our life the necessary bounds– like river banks hold the flow of water–; even our freedom is contextualized by it, directing our actions into ready-made or self-reforming channels. In contrast with the Anglo-Saxon mentality, which guarantees the sense of constancy in an ever-evolving world, without any superstructure erected. In law, the latter rather achieves consistency directly, by way of relying on the cross-referential use of judicial discourse in argumentation and justification.)

Moreover, although it is one single given corpus of the laws upon which a dogmatics is elevated, doctrinal studies continuously develop in time with competing strands (directions or variations) according to authors. In choosing amongst concurrent variants one may naturally use whatever criteria (including the one used to rank scientific explanations), the final criterion is however always provided by willful decision within the canon of institutional discipline,[24] harmonizing restitutive conservatism and the renewal's practical intents.

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had finally been completed spanning a period of some 150 years [Brierley, J.-E. C.– Macdonald, R. A. (ed.): *Quebec Civil Law*. Toronto, 1993. 728], it rapidly became obsolete with the enactment of a new code replacing it–, then this can only target legal dogmatics, even if cultivated under the aegis of and by means of scholarship, just as this mostly happened with countries (in the 19th century exegetic nations-centered upswing) that had already completed their law codification process.

[24] For instance, the disciplinary entitlements of the Teaching Church, including the option to declare anyone a heretic and the institution of censorship as well; or, in a special area of law, those preference-orders that are non-official but are definitely to be taken into consideration, and which are to function in both basic examinations and higher level court procedures in countries rich in literature comprised of competing works in the doctrinal study of law (especially Germany).

5. Rules and Principles in Law

We spoke above of the manifestation of law being posited in general, because this is the pattern in continental Europe to become–slowly but systematically– the foundation for law to be manifested as sets of rules. *To be rule-based* is one of the feasible directions of development, rather self-evident by the way, knowing, from the past, the developmental trends of *scientia* in general and of *theologia* in particular, knowing logical reasoning based on systemic conceptual constructs, and knowing how much idealized the use of axiomatic patterns was in history.

Being rule-based, however, has never been exclusive, although to this day it persistently remains the basic form of posited law. The circumstance that principle-based and individual equity-based methods of decision making appear to be competing directions in our time, is just a sign of tactics (in a historical context then: signaling the trend of daily battles) of a struggle for supremacy, i.e. how to achieve primacy; since it activates an already available potential in order to use it for constructing while de-constructing, according to those *desiderata* within its reach. Its elements had been known since the earliest of ancient times: reference to values, clauses marking community contents of common good and interest and public safety, adjudication according to consequence or derived from undefinedly flexible legal concepts. This new development working to loosen the positivity of law (as signaled by the worldwide effect of Dworkin[25]) is nevertheless almost completely irrelevant from the point of view of dogmatics.

Because as soon as law is fundamentally rule-based, even competing perspectives signal the existence of rules, or the presence of the mandate to apply given rules in given situations. Moreover, even the integration of such competing perspectives into the underlying system is mostly mediated by the construction of critical gaps of rules–only to develop their own mediatory forms, from being case-specific (and therefore incidental and feeble) to gradually becoming defined as quasi-rules themselves. Consequently, even the logic behind their dogmatics has no other target than to advance their own genuine or quasi rule-set to a higher developmental level in this way (Rule Set_1 converted into Rule Set_2, and thereby creating a construct valid for use in whatever given present time). Or, all their verbal attacking or mode of phrasing aims to form a canon diversifying Rule Set_2 from Rule Set_1, but in the

[25] See in particular Dworkin, R. M.: Hart's Postscript and the Character of Political Philosophy. *Oxford Journal of Legal Studies,* 24 (2004) 1–37.

perspective of some Rule Set_x (the targeted–albeit always temporary–result of such tactical procedures).

Accordingly, the dogmatics of current mainstreams is exactly neither of a new type nor one offering alternatives. It is perhaps its radical style reminiscent of battle alarm that makes it at first glance unusual (just as the truly brutal *ad hominem* arguments of Engels or Lenin[26] did not change philosophizing at their time, at most they signaled its instrumentalised use as an available tool of class-struggle). Since it remains a common element that in law the *termini of decisions are eventually determined by the law itself*–even if the law does not define anything further in specification. Unless–in terms of procedural options–it turns to the alternative of appointing an outside forum of arbitration, it does not even turn over the territory to other materialities (homogeneities) contrasted to its own "distinctively legal"[27] one. Even its potentially undefined nature is no other than that of the determined undetermined [*bestimmte Unbestimmtheit*] described by Lukács,[28] the filling with content of which on the terrain of law is given as an exclusive power to the judge appointed to the case, and paired with appropriate discretion. Therefore, without the false construct of some mechanicity, we cannot even claim a chance that "a legal regulation would be filled with content by non-legal rules of another social sphere".[29]

6. Correlation between Legal Cultures and Legal Theories

Our experiences have grown exponentially in the past half century, and especially in the last quarter century. Our theoretical legal thinking has by now gone away beyond the boundaries of the previously deeply entrenched positivist legal thought, and now–founded by the philosophy and methodology of sciences, substantiated by comparative historical, anthropological and sociological investigations, enhanced in problem-sensitivity, with a particular emphasis given on differentiation between separation and concurrence of ontological and epistemological aspects–it is ready to fully understand what it could already perceive in germs (of more intuition and hesitation than of scientific

[26] Cf. Szabó, S.: A lenini stílus a gyakorlatban [Practice of the Leninist style]. *Korunk,* 1960. 375–382.

[27] Cf. Selznick, Ph.: The Sociology of Law. In: Sills, D. L. (ed.): *International Encyclopedia of the Social Sciences,* 9. New York, 1968. 51 et seq.

[28] Lukács, G.: *Ästhetik* I. Berlin, 1963. 720.

[29] Pokol, B.: *Jogelmélet* [Legal theory]. Budapest, 2005. 31.

categoricity) in the literary products of the debate between formalism and anti-formalism back in the 1960's.[30]

An internal reorganization has occurred among the modes of legal reasoning and argumentation in the process of competing for the position of getting accepted as canon, so that the ruling of the law's territory could be reallocated via the reassignment of leading positions. In order for this to happen, new legal policies, ideals and ideologies, as well as professional world views (in the sense of *juristische Weltbilden*) were formulated, which can, naturally, one day in the future end up consolidating into (temporarily come to a rest as) a new legal world view, which will be a new balance, establishing a new professional deontology, replacing (or, to be sure, at least sublating) past normativism.[31]

What is constantly implied by the above is the outcome that the chances of a theoretical-methodological reconsideration (once formulated by Chaïm Perelman and Michel Villey upon the stand of anti-formalism in argumentation) are steadily growing and so does the chance of reaching a more complex answer in hermeneutics. A new element is the English–American consciousness, which for the first time in history responds to the call to investigate the feasible connections among law, language, and logic; and in its haste to quickly come to possess this construct and in the midst of its focus on wanting to rule over the practical development of law, it has started systematic efforts at integrating into its working legal system a mass of new methodological options. While its law is "floating" and practically disappears into a mist,[32] its legal professionals have been put in the position of a gladiator and are left to rely solely on the awareness of the solid methodical nature of their procedures.

Our globalization has caused our theories to converge, yet our law has failed to follow suit. The excitingly complex methodology which is crusted onto the core of a still remarkably non-conceptualized *English–American* legal corpus of a merely denotative function has slowly started to dissolve the body of *Continental* law, which has for centuries been extremely conceptualized and enclosed by the walls of an axiomatic systemic discipline. And what is an unusual cultural intermixture and interflow produced by a comedy of errors

[30] For an overview, cf. Horovitz, J.: *Law and Logic.* A Critical Account of Legal Argument. New York–Wien, 1972. 213.

[31] Cf., by the author: *Lectures on the Paradigms of Legal Thinking.* Budapest, 1999. and What is to Come after Legal Positivisms are Over? Debates Revolving around the Topic of 'The Judicial Establishment of Facts'. In: Atienza, M.–Pattaro, E.–Schulte, M.–Topornin, B.–Wyduckel, D. (Hrsg.): *Theorie des Rechts und der Gesellschaft. Festschrift für Werner Krawietz zum 70. Geburtstag.* Berlin, 2003. 657–676.

[32] Cf. Varga: Legal Traditions? *op. cit.* passim.

from a comparatist's perspective observing from a point far off in the distance, is in this very context a remarkably likable and almost ideal study target for a thinker using cognitive mechanisms geared toward a methodic and paradigmatic reconstructive approach. All this is now given added importance–beyond the currently forming global-village dimension–by the issue of the convergence trend, present within the increasingly homogenized legal domains currently fought for in our unifying Europe, with former diverging traditions turned into interaction between Civil Law and Common Law, as observed in part in their daily interfacing and in part in their common foundations, their functioning and increasingly more conscious cultivation, on common platforms, fora and discourses.

7. Theoretical and Socio-philosophical Perspectives

It appears that the understanding reached in the Hegelian "cunning of reason"[33] (which suspects both a conscious and an unaware force at work in the shaping of the world, expressed by the Marxian paradox in that "they do not know it but they do it"[34]) has been serving as one of the explanatory principles of the development of science.

We know from linguistics that specialized languages making use of jargons even on the most homogenized fields are rooted in general language usage, and wherever they reach a boundary they borrow from the latter. Despite the theoretical universality and self-sufficient validity of its logical-mathematical toolset, the effort to construct the pure and unified language of science has failed.[35] As mentioned already,[36] linguistically speaking *law* is *law*, not reducible to anything other, so it *cannot be substituted with any other statement concerning the law*. Consequently, anything built on the law is at a *meta*-level in relation to it. But as also concluded then, parallel to the law (that can be referenced with ultimate validity) three further law-related homogeneities are built on everyday heterogeneity through complicated and uninterruptible (inseparable) interrelations as to their respective languages:

[33] *"List of Vernunft"* in Hegel, G. W. F.: *Lectures on the Philosophy of History.* Section II (2), § 36 in <http://www.marxists.org/reference/archive/hegel/works/hi/history3.htm#036>.

[34] *"Sie wissen es nicht, aber sie tun es"* in Marx, K.: *Das Kapital* I in Marx & Engels *Werke.* 23. 88.

[35] See, e.g., 'Frege, G.' in <http://plato,stanford.edu/entries/frege/> and the reference to *unified science* in note 4.

[36] Wróblewski: *op. cit.*

ordinary language

language of law	language of the practice of law
language of the doctrinal study of law	language of the science of law

ordinary language

Relative to the law, the practice of law is at a *meta*-level similarly to how it works in validity references, while it is also an ascertainable fact that the authoritative practicing of the law is capable of overwriting that what it claims only to apply. The doctrinal study of law is in a similar position, and the science of law–so to speak–observes all this from a distance. All of these four components, on the one hand, exert effects on one another, while on the other hand, all they are floating in the medium of ordinary language as stimulating it and stimulated by it at the same time.

Well, if it is true that on the foundation stretching from ordinary language to the language of jurisprudence there are four, partly and relatively separated (because constantly self-rehomogenizing) levels of *meta*-systems, then–even if this is valid only for an intellectual reconstruction in language-based symbolization–this allows the suggestion of some sorts of differing "modes of existence" of the legal phenomenon with "socio-ontological differences" as systemic counterparts.[37]

I have long entertained the thought of proposing the existence of competing components of law.[38] And *voilá*, here we are faced with the law's intimidating complexity, hardly supportable social weight, and the total web of inter-mediaries[39] of being legally disciplined and socially standardized, which are continuously reproduced and managed by largely separated blocks in the sector

[37] E.g., Schulz-Schaeffer, I.: Rechtsdogmatik als Gegenstand der Rechtssoziologie. *Zeitschrift für Rechtssoziologie* 25 (2004) 141–174–recognizes (p. 141) that "Established rules of interpreting the codified law have their part in constituting the social reality of law–provided that they are observed by the courts."

[38] Cf., by the author: Anthropological Jurisprudence? Leopold Pospíšil and the Comparative Study of Legal Cultures. In: *Law in East and West* On the Occasion of the 30th Anniversary of the Institute of Comparative Law, Waseda University, Tokyo, 1988. 265–285 and 'Law', or 'More or Less Legal'? *Acta Juridica Hungarica,* 34 (1992) 139–146 as well as his *Lectures on the Paradigms of Legal Thinking. op. cit.*, para. 6.1. For another attempt, see Pokol, B.: *The Concept of Law.* The Multi-layered Legal System. Budapest, 2001. 152.

[39] '*Vermittlung*' in George Lukács' posthumous *The Ontology of Social Being*. Cf., from the author: *The Place of Law in Lukács' World Concept.* Budapest, 1985. 193, especially para. 5.1.3, 107 et seq.

assigned to law by the division of labor within society. Well, some keenly exact sensitive conclusions[40] resulting from considerations just surfaced allow the possibility for the law's socio-ontology to further develop its foundations, known from Lukács and Niklas Luhmann, among others.

What are exactly legal professionals doing in a complex society when receiving a large heap of texts in order to be used as a basis of referencing in their practical decision making? What kind of understanding legal professionals form when with firmly established doctrinal understanding in the background, they define meanings able to be presented as premises of decisions made according to their particular hierarchy-expectations and practical testing?

It is to be known that sectors separated (though working together) in the social division of labor while also separated from one another (though working together) are to produce and incessantly reproduce a *framework of understanding*, which despite forming from the incidentals of everyday practice, nevertheless is to reflect determinations manifest in it, creating such a web which is although not independent of all active forces in the given sphere but as a concentrate of them it too steps forward as an *intermediary* medium, and as such will to a great extent become independent of all the particular definitions. Furthermore, it will step forward as such a factor–a *second reality*–produced by man based on hierarchical structures originally imbedded in reality, which has a distinct chance to effectively direct the law's understanding into its proper artificial channels and preestablished groupings. And this way–making use of fundamentally educational and socialization-generating instruments–it can finally manufacture a certain practical sense of human security (in all sectors being disciplined and standardized) out of something that had in and of itself ever been a silent sign: out of language used by law, out of the way language conveys law in given forms.

Or, so far we have talked about dogmatics as the contextualizing grouping of the further definition of the intellectual environment of one possible determination of legal mediation, which is positivation. Thus we have contemplated the

[40] To quote but one example: "all particular areas of action (practices) have a correlative verbal activity attached, through which an efficiently practice-oriented communication can take place among participants. The key to this is the conceptual set of language rendering the interrelation prevailing between signs and meanings in language to accord to mental correlations corresponding to those modes of action which are relevant to the said practice. In this very sense all social practices have such a conceptual system which may quite reasonably be termed dogmatics." Bódig, M.: Jogdogmatika és jogtudomány [Legal dogmatics and legal science] and A jogdogmatika tág és szűk fogalma [The large and narrow notions of legal dogmatics]. In Szabó, M. (ed.): *Jogdogmatika és jogelmélet* [Legal dogmatics and legal theory]. Miskolc, 2007. 32–33, respectively 255–256.

issue from a single perspective, on the path of the chances of the formally posited law's further formalization. Therefore we must be cognizant that when doing so, we are giving preference to analytical requirements, and are quite a long distance away from gaining an understanding of the law's social aspects, of the nature of its truly sociological existence, and even farther away from being able to get insight into law's mystery in its true complexity.

What really takes place here is hardly other than us projecting, distanced by materializing (as alienated into reified objectivities)–and thereby transferring into the fetishized role of a pseudo-deity or substitute sense of security–that which is in fact us ourselves. Instead of the autopoietic reliability of human practice self-reproducing at a societal level, we transpose our desire for safety into conceptualized constructs, into logic and taxonomy, and with this ultimately, in a metaphysical dimension. Thereby we can hardly go beyond what has already been described by Frank as a psychoanalytical projection,[41] fulfilling the needs of our most human and therefore quite ineradicable innate atavism that will transpose our want for authority in a father complex into the enchantment by artificial creatures we are stressed at incessantly and instantly producing. This, even if considered in the sense of scientific reconstruction to be the demystification of an idol, is at the same time, however–and exactly in its own duality[42]–a necessity. This is exactly the reason why law was at all formed, since exactly such and similar kinds of reasons led to humanity constructing so called *second nature* to surround itself with, exemplified, among others, by doctrines.[43]

[41] Cf. Frank, J.: *Law and the Modern Mind.* New York, 1963. 404.

[42] Referring here to the deeply socio-philosophical debates regarding what the role and the genuine ontological status of ideologies are.

[43] A research carried out thanks to and within the Project K62382 financed by the Hungarian Scientific Research Fund.